

Ordinance No. 11-07

ORDINANCE

To enact a new Chapter 23.5 of the Rockville City Code entitled “Water quality protection” to protect the quality of surface waters and groundwater within the City by prohibiting or otherwise regulating the discharge of certain pollutants into such waters, by regulating certain land use practices so as to prevent such discharge, by providing for inspections of property and water quality monitoring, by providing for corrective action and enforcement remedies for violations of the provisions of the chapter; and to otherwise satisfy the requirements of the NPDES permit issued to the City by the State of Maryland.

WHEREAS, the Mayor and Council desire to protect the quality of surface waters located within, and the groundwater underlying the City of Rockville; and

WHEREAS, the Maryland Department of Environment has issued a series of permits to the City which hold it responsible for the quality of its Stormwater discharges to surface waters in the City; and

WHEREAS, the Mayor and Council desire to protect the safety of City personnel and their representatives working in City storm drains and sanitary sewers; and

WHEREAS, the Mayor and Council desire to minimize the costs of storm drain and sanitary sewer maintenance, and to prolong the useful life of this infrastructure by prohibiting materials that may cause blockages, and be harmful or otherwise incompatible with the storm drains and sanitary sewers.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that a new Chapter of the Rockville City Code entitled “Water quality protection” be, and hereby is enacted to read as follows:

CHAPTER 23.5. WATER QUALITY PROTECTION

ARTICLE I. IN GENERAL

Sec. 23.5-1. Definitions.

For the purposes of this chapter, and any rules or regulations established hereunder, certain words and terms used herein are defined as follows:

Administrative Authority means the City Manager for the City of Rockville, Maryland and the City Manager's designee and duly authorized agents.

Automotive Fluids means oil and grease, gasoline, diesel fuel, brake fluid, transmission fluid, petroleum, air conditioning refrigerants, antifreeze, battery acids, windshield wash, solvents, vehicle washwater, and other liquids used, generated or produced in the course of operating an automotive maintenance, repair, cleaning and detailing shop.

City means the Mayor and Council of Rockville, a municipal corporation of that name chartered by the State. When appropriate, the term shall also refer to the legal boundaries of such municipal corporation and the land within it.

City Waterway means Watts Branch, Rock Creek, Cabin John Creek and any of their named and unnamed tributaries as well as other streams, brooks, creeks, [tributaries,] ponds, lakes, impoundments, springs, seeps, marshes, swamps, bogs, wetlands, ditches, channels, canals, conduits, culverts, drains, gullies, ravines or washes, including any adjacent area that is subject to periodic inundation from overflow or flood water, whether natural or man-made, located in whole or in part within the boundaries of the City of Rockville, Maryland. City waterways include waterways with intermittent flows.

Clean Water Act means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.).

Code means the Rockville City Code.

Discharge means to dump, spill, leak, leach, throw, place, push, pump, toss, convey or otherwise release pollutants to City waterways, the storm drainage system [network] or groundwater.

Erosion means the process by which the ground surface is worn by the action of wind, water, ice or gravity.

Food Service Establishments means restaurants, cafeterias, hotel kitchens, church kitchens, school kitchens, hospital cafeterias, bars or any other commercial or industrial operation that discharges grease-laden wastewater having greater than 100 milligrams per liter of fats, oils and grease.

Groundwater means an aquifer or subsurface water in a zone of saturation underlying, in whole or in part, the boundaries of the City of Rockville, Maryland.

Hazardous Substance means a hazardous waste as defined in the Annotated Code of Maryland Regulations (COMAR) Section 26.13.02.03.

Impervious or Impervious Areas means an area that prevents or severely restricts water from reaching the subsurface and recharging groundwater. This condition can be caused by a structure, paving, compacted soil or gravel or other features that forms a barrier between precipitation and the earth's surface. Impervious area also includes elevated structures, such as a bridge or deck, regardless of whether the land surface beneath it itself is porous or impervious.

Infiltration means the passage or movement of water into the subsurface soil.

National Pollutant Discharge Elimination System (NPDES) permit means a [permit] conditional regulatory license issued by the State of Maryland or the United States Environmental Protection Agency under section 402 of the Clean Water Act and its regulations (40 CFR Parts 122, 123 and 124).

Owner means a person holding an ownership interest in real property, [an owner,] or [and] a manager, lessee, [or] tenant or other occupant of [privately-owned,] real property in the City.

Person means a natural person, individual, corporation, company, partnership, association, organization, joint venture, society, property management company or [and] governmental entity or agency, including the City and agencies of the City.

Pollutant means any solid, liquid, or gas substance, including but not limited to abrasives, acids, automotive fluids, batteries, biological materials, caustics, chemical toilet contents, chemical waste, cooking oils, debris, dirt, dredged material, dust, fertilizers, garbage, grass clippings, gravel, grease, heated water, hazardous waste, herbicides, human wastes, incinerator ash, industrial waste, medical waste, mop water, nutrient, oil, oxygen-demanding material, paint, pesticides, petroleum, pet wastes, pharmaceuticals, radioactive materials, refuse, roadway and sidewalk cleaners, rock, sand, scrap metal, sediment, septage, sewage, soil, solid waste, toxic substance, trace metals, trash, turbidity-causing materials, wash water, wastewater, [and] wastewater treatment sludges, wet saw cuttings or [and] yard wastes that are discharged into the City waterways and storm drainage system [network].

Pollution Prevention Practices means any practice employed to prevent the generation of waste materials or discharge of pollutants. Pollution prevention practices include but are not limited to chemical substitutions, process changes, proper storage of hazardous chemicals and other potential pollutants, spill alarms and controls, good housekeeping, standard operating procedures, and employee education and training.

Premise means any building, structure, lot, property, parcel or portion of land, whether improved or unimproved, including adjacent sidewalks and parking areas.

Runoff means water from storm events that flows across impervious or pervious areas without infiltrating into the ground.

Sediment means soils or other particulate materials eroded or otherwise separated from parent materials and transported or deposited by the action of wind, water, ice, gravity, or by being placed in or near the waterway.

Sediment Control Permit means the permit issued by the Administrative Authority in accordance with the provisions of c[C]hapter 19 of this Code.

Sediment Control Permit Plan means a written plan designed to minimize erosion and prevent off-site sedimentation, which contains all information necessary to support a Sediment Control Permit.

Storm Drainage System means the City's municipal separate storm sewer system (MS4) that collects, stores, conveys or treats stormwater, including but not limited to any roads with drainage systems or ditches, municipal streets, gutters, flumes, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, stormwater management facility, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

Stormwater means any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Management means any structural or non-structural measure or activity, designed to reduce the volume, improve the quality, slow the velocity, or otherwise store, control, treat, or mitigate stormwater.

Stormwater Management Facility means a structural device to collect, store or treat stormwater, including but not limited to ponds, wetlands, infiltration systems, filtering systems, open channel systems, and underground storage systems. It includes all land, materials, and appurtenances used in construction and operation of the facility.

Stormwater Management Permit means the permit issued by the Administrative Authority authorizing construction of stormwater facilities or watershed improvements, in accordance with the provisions of c[C]hapter 19 of this Code.

Stormwater Management Permit Plan means a drawing and other documents pertaining to a stormwater management facility or other watershed improvement that contain all information necessary to support a Stormwater Management Permit.

Stream Buffer means the land area extending out from either side of a stream channel or wetland that protects the stream channel integrity and filters pollutants from reaching the stream itself. The width of a specific stream or wetland buffer is determined by the criteria set out in pages 13-17 of the Rockville Environmental Guidelines for the Protection and Enhancement of the City's Natural Resources, July 1999, hereby incorporated by reference. [The size of the stream buffer varies by the slope of the land but is no less than 125 to 175 feet on either side of the stream channel unless the Administrative Authority approves or has approved an alternative stream buffer. Stream buffers for wetlands, springs and seeps vary with stream size and slope of the land, and are no less than 25 feet and up to 100 feet wide.]

Toxic Substance means any liquid, gas or solid substance, or combination of substances that can cause death, disease, behavioral abnormalities, cancer, psychological harm, genetic mutations, physiological malfunctions (including reproductive malfunctions), or physical deformities in humans, wildlife, and aquatic life and their offspring[, or other physical or mental injury].

Watershed Improvements means structural and nonstructural measures taken to enhance the flow, quality and habitat of a City waterway. Such improvements may include but are not limited to sponsoring or providing for stream channel restoration, planting streamside vegetation, fish passage barrier removal, storm sewer marking, compliance workshops, erecting fencing, establishing monitoring stations, stream-bed gravel restoration, erosion controls, wetland enhancement, environmental education programs and other measures as approved by the Administrative Authority.

Sec. 23.5-2. Purposes.

(a) The purposes of this chapter are to:

(1) [to] P[p]rotect the health, safety, and welfare of the residents of the City by restoring and maintaining the chemical, physical and biological conditions of the waterways located within the City;

(2) [to] P[p]revent the degradation of groundwater and contamination of C[c]ity waterways where waterways and groundwater are hydrologically connected; and

(3) [to] E [e]nsure that Federal and State requirements set out in National Pollution Discharge Elimination System (NPDES) permits issued to the City by the State of Maryland are complied with, and that all applicable water quality standards adopted by the State of Maryland are met.

(b) The provisions of this chapter satisfy these purposes by:

(1) Prohibiting the discharge of pollutants to City waterways, the storm drainage system [network] and groundwater;

(2) Prohibiting illicit connections to the storm drainage system [network];

(3) Preserving and prolonging the useful life of City's sanitary sewer and storm drain [sewer] infrastructure;

(4) Safeguarding C[c]ity personnel and Rockville residents who may be adversely affected by discharges to the sanitary sewer system and the storm drainage [network] system;

(5) Providing for inspection, surveillance, monitoring and enforcement procedures necessary to identify and respond to existing violations, deter future violations and ensure accountability for harm or injury to persons, property, city infrastructure, aquatic life, wildlife, and City waterways; and

(6) Requiring persons responsible for illegal discharges to be held financially responsible for any harm or injury to persons, damage to City infrastructure or degraded water quality. [assume the costs of remedying any resulting damage and certain other costs.]

Sec. 23.5-3. Authority.

Adoption of this ordinance is authorized by Article IV, Section 1, and Article X, Sections 8 and 14 of the Rockville City Charter; Article 23A, Section 2 of the Maryland Code, and Title 33 U.S. Code Sections 1251 through 1387.

Sec. 23.5-4. Effect on Other Laws.

(a) The requirements contained herein are declared to be minimum requirements imposed by the City; and they are in addition to, and not in lieu of, all other applicable legal requirements established by federal, state and local statutes and rules.

(b) The requirements and provisions of this chapter shall be liberally construed to accomplish the purposes set forth in section 23.5-2.

Sec. 23.5-5. Administration.

The Administrative Authority, through designated Departments of the City, shall administer, implement and enforce this chapter.

Secs. 23.5-6 – 23.5-10. Reserved.

ARTICLE II. WATER QUALITY PROTECTION
DIVISION 1. PROHIBITED [DISCHARGES] ACTIVITIES

Sec. 23.5-11. General Prohibitions

(a) Except as otherwise provided in section 23.5-12, no person shall:

(1) Discharge pollutants into a City waterway or storm drain system;

(2) Place, store or locate pollutants in proximity to a City waterway or storm drain system such that the pollutants can be reasonably expected to wash, runoff, leach, drain, or may [are] otherwise be conveyed or carried into a City waterway by a precipitation event, snow melt, flood, or release of water;

(3) Cause or significantly contribute to an acceleration of the natural rate of erosion of stream bank areas and hillsides;

(4) Cause or allow the construction, use, maintenance or continued existence of connections to the storm drainage system without specific written approval from the Administrative Authority. [This prohibition expressly includes those connections that may have been permissible under law or practice applicable or prevailing at the time the connection was originally made;] The City reserves the right to revoke connections it has authorized under previous law or practice applicable or prevailing at the time the connection was originally made;

(5) Place fats, oils, or grease into a City-owned storm drain [sewer] or sanitary sewer in amounts or concentrations that can cause or significantly contribute to a complete or partial blockage of the sanitary sewer or storm drain [line]; but in no case shall a person discharge more than 100 milligrams of fats, oils and grease per liter of water.

- (6) Discharge residual solids obtained from a septic tank or other similar treatment system [high-strength septage] into a City-owned sanitary sewer without the specific written approval of the Administrative Authority;
 - (7) Discharge pollutants that alter the color of a City waterway;
 - (8) Discharge pollutants that cause a film or sheen on the water's surface;
 - (9) Discharge pollutants that cover stream gravels and aquatic grasses;
 - (10) Discharge pollutants that obstruct all or a significant portion of the stream flow;
 - (11) Discharge pollutants that adversely affect the chemical, physical and biological health of the City waterway;
 - (12) Discharge pollutants that adversely affect any threatened or endangered species or designated critical habitat;
 - (13) Discharge pollutants that damage or harm the City's storm drainage system; and
 - (14) Discharge pollutants that degrade or have the capacity to degrade groundwater quality.
- (b) Persons who, intentionally or unintentionally, cause or significantly contribute to pollutant discharges into City waterways or the storm drainage network must:
- (1) Take immediate actions to recover the pollutants, or reverse or mitigate the adverse effects of those [the] pollutants; and
 - (2) Notify the Rockville Department of Public Works by telephone at (240) 314-8348 within two hours of discovering the discharge.

Sec. 23.5-12. Allowable Discharge Exemptions

- (a) The following pollutant discharges are exempted from the general prohibitions in Section 23.5-11[(a)]:
- (1) Discharges in compliance with [covered by] an NPDES permit issued by the State of Maryland;
 - (2) Discharges in compliance with sediment control permits and plans, or stormwater management permits and plans issued by the Administrative Authority;
 - (3) Discharges from emergency fire fighting activities;
 - (4) Dye testing and other monitoring activities to determine the condition of the waterway or storm drainage network or to trace spills, inflow or infiltration;

(5) Discharges from the operation of street sweeping equipment [cleaning activities] However, the material collected by street sweeping shall not be placed in a storm drain;

(6) Uncontaminated [pumped or naturally rising] groundwater discharged into a stream or storm drain;

(7) Groundwater infiltration into the storm drainage [network] system;

(8) Discharges from foundation or footing drains (except for active groundwater dewatering systems);

(9) Discharges from residential sump pumps;

(10) Individual residential car washing using phosphate-free, biodegradable detergents;

(11) Residential swimming pool water (if chlorine levels are less than one (1) part per million chlorine);

(12) [Residential] A[a]ir conditioning condensation;

(13) Discharges from properly maintained and operated residential landscape irrigation;

(14) Diverted stream flows; and

(15) Other discharges that the Administrative Authority approves in advance and in writing as necessary to protect public health and safety.

Secs. 23.5-13 – 23.5-20. Reserved.

DIVISION 2. BEST MANAGEMENT PRACTICES

Sec. 23.5-21. Accidental Discharges.

(a) All commercial, industrial, institutional and multifamily residential establishments shall provide, at their own expense, reasonable protection from accidental discharge of pollutants into City waterways, the storm drainage system [network] or groundwater.

(b) Persons causing or significantly contributing to known or suspected pollutant releases that might reach City waterways, the storm drainage system or the groundwater shall take all necessary steps to prevent the release from reaching the waterway or storm drainage system.

(c) Persons causing or significantly contributing to the prohibited discharges of pollutants set out in section 23.5-11(a) that reach City waterways or the storm drainage system shall notify the Rockville Department of Public Works by telephone at (240) 314-8348 within two hours of discovering the discharge.

(d) In the event that the discharge is of a hazardous substance, the person shall immediately notify the Montgomery County HazMat Emergency Response Unit stationed in Chevy Chase, Maryland of the discharge.

Sec. 23.5-22. Streamside Properties.

(a) Persons owning, leasing, [or] occupying [property] or managing property, through which a City waterway passes shall keep and maintain that part of the waterway and the associated stream buffer free of pollutants[, trash, debris] and [other obstacles] obstructions that would [pollute,] contaminate, or significantly restrict or retard the flow of water.

(1) The owner, lessee, occupant or manager shall not cause vegetation growing inside the applicable stream or wetland buffer to be removed without advanced approval from the Administrative Authority.

(2) In addition, the owner or lessee shall, at their own expense, maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Sec. 23.5-23. Food Service Establishments [Restaurants and Commercial Kitchens].

(a) Persons owning or operating food service establishments [restaurants and commercial kitchens] must [install and maintain equipment, or] take such [other] measures as may be needed to prevent fats, oil and grease from being discharged into the City's sanitary sewers, storm drains or City waterways.

(b) Grease interceptors must be sized and installed in accordance with section 1003.3 of the *International Plumbing Code*, page 78, (2006) published by the International Code Council, Inc.

(c) Grease interceptors and other equipment installed to prevent grease from reaching the sewer must be maintained, including periodically removing the accumulated material to ensure the equipment functions properly.

(1) The use of biological enzymatic and solvent additives in grease interceptors or associated plumbing for the purposes of controlling fats, oils and grease discharges is prohibited.

(2) The City may issue regulations that describe specific best management practices and record keeping requirements for these systems.

(d) In no case, shall discharges of fats, oils and grease into the sewer system exceed 100 milligrams per liter.

(e) In the event two or more food service establishments share or combine equipment or facilities used to capture, store or treat fats, oils and grease, all of the participating establishments, including any management company hired or employed to maintain this system, shall have joint responsibility for the effectiveness and maintenance

of the shared or combined equipment or facilities, including being subject to enforcement actions under section 23.5-42.

Sec. 23.5-24. Automotive [Repair] Shops.

Persons owning or operating automotive maintenance, repair, cleaning or detailing shops must install and maintain equipment or take such other measures as may be needed to prevent oil and grease, automotive fluids and batteries from being discharged into the City's sanitary sewers, storm drains and City waterways.

Secs. 23.5-25 – 23.5-30. Reserved.

ARTICLE III. COMPLIANCE AND ENFORCEMENT

DIVISION 1. INSPECTIONS, INVESTIGATIONS AND MONITORING

Sec. 23.5-31. Right of Entry.

(a) The Administrative Authority may [shall], after proper identification, enter any private property being developed, business, commercial premises or multi-family dwelling at any time [during normal working hours] when construction, operation or business is occurring, to determine whether this chapter and any permits or licenses issued under this chapter or chapter 19 are being complied with.

(b) In emergency situations where an immediate threat or hazard to public health, safety or the environment may be occurring, the Administrative Authority shall, at any time, and after such identification as may be reasonable under the circumstances, enter any premises without further notice.

(c) [No person shall hinder, prevent, or unreasonably refuse to cooperate with an inspection, investigation, or monitoring activities under this chapter.] The owner of the premises must allow the Administrative Authority ready access to all parts of the premises for the purposes of inspection and sampling, and examination and copying of records relating to a [the] discharge or the activities causing or significantly contributing to a [the] discharge.

(d) If a person withholds or withdraws consent to enter or remain on private property [is withheld], the Administrative Authority may obtain an administrative or criminal search warrant, as may be applicable, from a court with jurisdiction to authorize [ing] such entry, except that entry may be made without a search warrant where there are conditions on the premises that represent an immediate hazard to public health or safety or such other exigent circumstances exist that justify a warrantless search under the law.

(e) Any temporary or permanent obstruction that in whole or in part prevents safe access to a commercial or industrial establishment to be inspected or sampled shall be promptly removed by, and at the expense of, the owner upon the written or verbal request of the Administrative Authority and shall not be replaced.

(f) Any person who makes a false statement or report to the Administrative Authority, or who tampers with or otherwise renders a monitoring device inaccurate, shall be deemed to have committed a separate violation of this chapter for each such false report or sample result.

Sec. 23.5-32. Water Quality Monitoring.

(a) The Administrative Authority shall have the authority to install or place on any premise such devices as are necessary in the opinion of the Administrative Authority to conduct monitoring and sampling of a discharge, the City waterway, or the storm drainage system [network].

(b) The Administrative Authority may order an owner, at the owner's expense, to install and operate monitoring and/or sampling equipment to characterize the nature of the discharge and the effects on the waterway or storm drainage system [network], if any. The monitoring and sampling equipment must, at all times, be maintained in a safe and proper operating condition. All monitoring equipment must be properly calibrated to ensure accuracy.

Secs. 23.5-33 – 23.5-40. Reserved.

DIVISION 2. ENFORCEMENT AND CORRECTIVE MEASURES

Sec. 23.5-41. Violations.

(a) The following are separate and distinct violations of this chapter.

(1) The failure of any person to comply with any provision of this chapter.

(2) The failure of any person responsible for a condition that violates any provision of this chapter to correct and abate such condition in a timely manner.

(3) The failure of any person to comply with any order or directive of the Administrative Authority.

(4) The failure of any person to pay any cost, fee, fine, or penalty imposed by this chapter or any order or directive issued hereunder.

(5) The failure of any person to comply with any requirement contained or incorporated in an administrative or judicial enforcement action authorized in section 23.5-42 within the specified time frame.

(b) Each day that a violation continues shall constitute a separate and repeat violation.

(c) Unless otherwise provided, a violation of this chapter shall constitute a municipal infraction for which a municipal infraction citation may be issued pursuant to section 1-9 of this Code.

(d) In addition to the enforcement responses, corrective actions and penalties provided in section 23.5-42 of this chapter, any condition that violates this chapter is deemed a threat to public health, safety, and welfare, and is declared a nuisance.

(1) The Administrative Authority may order owners or persons responsible for a nuisance to abate and eliminate the nuisance at the responsible person's own expense.

(2) The Administrative Authority is authorized to pursue a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance. In such cases, the owner or responsible person shall reimburse the Administrative Authority for costs incurred in carrying out actions under this subsection.

(e) In addition to the enforcement responses in section 23.5-42, it shall be a misdemeanor, subject to a fine of one thousand (\$1000) and/or imprisonment six (6) months, for any person to commit a third violation of the same provision of this chapter, or a fourth violation of any provision of this chapter, within in a twelve (12) month period.

[(a) The failure of any person to comply with any provision of this chapter or with any valid order or directive of the Administrative Authority shall constitute a separate and distinct violation of this chapter.]

[(b) A violation of this chapter shall constitute a municipal infraction pursuant to section 1-9 of this Code.]

[(c) Any violation of this chapter subjects the person responsible for the violation to one or more of the enforcement responses set out in 23.5-42 of this chapter.]

[(d) Each day a violation continues shall constitute a separate and repeat violation.]

[(e) In addition to the enforcement processes and penalties provided in this chapter, any condition that violates this chapter is deemed a threat to public health, safety, and welfare, and is declared a nuisance. Such a condition may be summarily ordered to abate and eliminate the nuisance oot the violator's expense. The Administrative Authority is authorized to pursue a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance. In such cases, the owner shall reimburse the Administrative Authority for costs incurred in carrying out actions under this subsection.]

Sec. 23.5-42. Enforcement Responses, and Corrective Actions and Penalties.

(a) When a violation of this chapter is identified, the Administrative Authority may, in the Administrative Authority's sole discretion, take any or all of the following actions against the person(s) causing or significantly contributing to the violation:

(1) Administrative orders and fines

a. Issue an Abatement Order to the person responsible for a violation to abate and eliminate the violation at the responsible person's own expense.

b. Issue a Stop Work Order requiring all construction, business operation, and other activities relating to the suspect discharge to be halted until the

violation is corrected to the satisfaction of the Administrative Authority. Work necessary to correct the violation or to protect the City waterways is allowed.

c. Issue a Compliance Order establishing a specific schedule for achieving compliance with monitoring and sampling requirements, management practices, pollution prevention practices, watershed improvements, treatment approaches, the abatement of pollution, the cleanup of a spill, the repair of any damages to Rockville infrastructure, additional monitoring requirements, and other corrective actions established in the order as the Administrative Authority deems necessary. Any records, including sampling results, measurements, photos, videos, and other documentation required to be generated by the compliance order shall be retained and made available upon request by the Administrative Authority for a period of no less than 3 years.

d. The issuance of a Stop Work Order or Compliance Order does not relieve liability for any previous or continuing violations, and issuance of the order shall not bar the Administrative Authority from pursuing additional action against a person in violation of this Chapter.

e. Issue a directive or order imposing an administrative fine of \$1,000 per violation per day.

(2) Additional administrative remedies.

a. The City may elect to discontinue water and sewer service until compliance is achieved and all costs owed to the City pursuant to this chapter are paid.

b. The City may suspend Public Works Permits, Building Permits, Use Permits, Occupancy Permits, and any other permits related to the activity resulting in the violation or to the site on which the violation is occurring.

c. In lieu of, or in addition to, other corrective measures authorized by this Chapter, the Administrative Authority and the person in violation may agree to pursue watershed improvements in lieu of paying some or all of the administrative fine.

(3) Judicial enforcement

a. Issue a municipal infraction citation imposing a fine of \$1,000 per violation per day.

b. Institute any appropriate civil or criminal action or proceeding to prevent, restrain, correct or abate any violation of this chapter or any administrative orders or directives issued hereunder.

(4) Costs

a. Any person found to have discharged pollutants in violation of this chapter shall reimburse the City for all costs associated with the inspection, sampling, analyses, and enforcement action resulting from the violation(s).

b. Any person found to have discharged pollutants in violation of this chapter shall indemnify the City for any fines or penalties assessed against the City as a result of the illegal discharge.

c. All fines, penalties, and costs owed to the City pursuant to this section may be reduced to a judgment, filed as a lien on the property of the person responsible for the violation, and added to the tax rolls to be collected in the manner of Rockville City taxes.

d. The penalties, fines, and costs recovered by the City shall be deposited into the City enterprise fund that most closely corresponds to the type of violation(s) that initiated the penalties and cost recovery action.

(b) The remedies listed in this chapter are not sequential or exclusive. The Administrative Authority may take any, all, or any combination of these actions. Further, the Administrative Authority may pursue any other remedies available under any applicable Federal, state or local law.

(c) All decisions, findings, orders or directives issued by the Administrative Authority pursuant to subsections (a)(1)(2) or (4) of this section, except for a final decision of the Authority on an appeal, shall contain a notice of the right to appeal set forth in section 23.5-43.

[(a) Once the Administrative Authority identifies a violation of this chapter, the Administrative Authority may, in its sole discretion, take any or all of the following actions against the person causing or significantly contributing to the violation:]

[(1) Issue a Stop Work Order requiring all activities relating to the suspect discharge to be halted until the violation is corrected to the satisfaction of the Administrative Authority.]

[(2) Issue a Compliance Order providing for the following:]

[a. Establishing new, or reaffirming existing, requirements for monitoring and sampling, implementation for certain management practices and pollution prevention practices, watershed improvements, treatment approaches, the abatement of pollution, the cleanup of a spill, the repair of any damages to Rockville infrastructure, and such additional monitoring requirements, and other corrective actions as the Administrative Authority deems necessary.]

[b. Establishing a schedule for compliance with such monitoring requirements and preventative and corrective measures as may be required]

[c. Requiring any records, including sampling results, measurements, photos, videos, and other documentation and records required to be generated by the compliance order to be retained and made available upon request by the Administrative Authority for a period of no less than 3 years.]

[(3) Discontinue discontinuing water and sewer service to homes and businesses until compliance is achieved and all costs owed to the City pursuant to this chapter are paid.]

[(4) Seek one or more of the remedies, fines, penalties, or costs authorized in section 23.5-43 of this chapter.]

[(b) The issuance of a stop work order or a compliance order does not relieve a person of liability for any previous or continuing violations, and issuance of the order shall not bar the Administrative Authority from pursuing additional action against a person in violation of this Chapter.]

[(c) If it is determined by the Administrative Authority that a pollutant discharge poses an immediate hazard to the public health or safety or to the waters of the State located in the City, the Administrative Authority may, without prior notice, take action to abate any pollutant discharge, protect the public, and mitigate any damage that the pollutant discharge has caused to the affected waters. The cost of that removal, mitigation, and clean-up must be paid to the City by the owner of the property and/or business responsible for the illegal discharge or pollutant.]

[(d) In lieu of or in addition to other corrective measures authorized by this Chapter, the Administrative Authority and the person in violation may agree to pursue watershed improvements in lieu of paying a fine or penalty.]

[(e) The remedies listed in this chapter are not sequential or exclusive. The Administrative Authority may take any, all or any combination of these actions. In addition, the Administrative Authority may pursue any other remedies available under any applicable federal, state or local law.]

[Section 23.5-43. Citations, Fines, Penalties, and Costs.]

[(a) The Administrative Authority or his designee may:]

[(1) Impose an administrative fine of \$1,000.00 per violation per day;]

[(2) Issue a municipal infraction citation carrying a fine of \$1,000.00 per day per violation.]

[(3) Institute any appropriate civil or criminal action or proceeding to prevent, restrain, correct or abate any violation of this chapter and any administrative orders and directives issued hereunder.]

[(b) Any person found to have discharged pollutants in violation of this chapter of the Code must:]

[(1) reimburse the City for all costs associated with the inspection, sampling, analyses, and enforcement action resulting from the violation(s).]

[(2) indemnify the City for any fines or penalties assessed against the City as a result of the illegal discharge.]

[(c) All fines, penalties, and costs owed to the City pursuant to this section may be reduced to a judgment, filed as a lien on the property of the person responsible for the violation, and added to the tax rolls to be collected in the manner of Rockville City taxes.]

[(d) The fines, penalties and costs recovered by the City shall be deposited into the City enterprise fund that most closely corresponds to the type of violation(s) that initiated the penalties and cost recovery action.]

Sec. 23.5-43 Appeals of Enforcement Actions.

(a) Any person aggrieved by any decision, finding, order, or directive of the Administrative Authority may file an appeal therefrom in accordance with the following procedure.

(1) Any person wishing to appeal must, within five (5) business days of receiving written notice of any decision, finding, order, or directive, submit by certified mail to the Administrative [Authority by certified mail] Authority's designee who rendered the challenged decision, finding, order, or directive, a written request for reconsideration [by the Administrative Authority's designee who rendered the challenged decision, finding, order or directive].

(2) If reconsideration is denied, the aggrieved person [appealing] may within ten (10) business days thereof, submit by certified mail a written appeal of the designee's decision, finding, order, or directive to the [Administrative Authority] City Manager. The City Manager may designate another individual to hear the appeal, provided that such designee did not have any significant involvement in the decision, finding, order, or directive from which the appeal is being taken.

(3) The decision of the City Manager or the City Manager's designee is a final decision from which an aggrieved party may appeal to the Circuit Court for the County in accordance with the Maryland Rules as set forth in Title 7, Chapter 200.

[(3) The City Manager shall establish procedures for administering this appeal process.]

[(4) All decisions, findings, orders or directives issued by the Administrative Authority, except for a final decision of the Authority on an appeal, shall contain a notice of this right to appeal.]

[(5) Failure to request reconsideration or an appeal in a timely manner are to file an appeal in accordance with deemed waivers of these appeal rights.]

(b) The City Manager may establish procedures for administering this appeal process.

(c) The appeal process provided by this section shall be the exclusive and sole method of review of any such decision, finding, order, or directive issued pursuant to this chapter. The failure of an aggrieved person to file an appeal in accordance with the provisions of this section shall be deemed a waiver of these appeal rights and of the right to challenge the decision, finding, order, or directive in any other forum or in any other manner.

[(b)] (d) While any request for reconsideration or appeal filed under this section is pending, no person [identified as] charged with being in violation of this chapter shall continue to discharge pollutants to City storm drains and waterways.

Secs. 23.5-44 - 23.5-50. Reserved.

NOTE: Underlining indicates material added after introduction
[Brackets] indicate material deleted after introduction.

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council at its meeting of July 16, 2007.

Claire F. Funkhouser, CMC, City Clerk